

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

TERENCE D. JACKSON,
Plaintiff,

v.

UNITED STATES OF AMERICA,
et al.,
Defendants.

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CIVIL ACTION NO. 19-CV-3560

ORDER

AND NOW, this 27th day of August, 2019, upon consideration of Plaintiff Terence D. Jackson's Motion to Proceed *In Forma Pauperis* (ECF No. 1), his Prisoner Trust Fund Account Statement (ECF No. 3), his *pro se* Amended Complaint (ECF No. 7), and his "Motion Requesting to Add Insert Amended-2 and Amended-3" (ECF No. 8), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Terence D. Jackson, #75855-066, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court hereby directs the Warden of Philadelphia FDC or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Jackson's inmate account; or (b) the average monthly balance in Jackson's inmate account for the six-month period immediately preceding the filing of this case. The Warden or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Jackson's inmate trust fund account exceeds \$10.00, the Warden or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income

credited to Jackson's inmate account until the fees are paid. Each payment shall reference the docket number for this case.

3. The Clerk of Court is directed to **SEND** a copy of this order to the Warden of Philadelphia FDC.

4. The Complaint and Amended Complaint are **DEEMED** filed.

5. The Clerk of Court shall **AMEND** the docket to reflect that the Defendants named in the Amended Complaint are: (1) United States of America; (2) HSA Cassano; (3) AHSA Lawrie; (4) Dr. Dalmasi; (5) CD Dr. Laughingwell; (6) NP Kistler; (7) NP Bestedo; (8) ID Pena; (9) NP Nelson; (10) RN Fausto; (11) MLP Sogo; (12) Warden Marler; (13) AW Knox; (14) Lt. Wright; (15) Lt. Shannon; (16) Lt. Frontino; (17) Phys Dr. Daniels; (18) Dr. Brinkley; (19) UM Cole; (20) CM Cerda; (21) Counselor Perez; (22) Officer Moore; (23) Officer Burt; (24) Officer Burton; (25) Officer Garcia; (26) Officer Bastien; and (27) Hepner.

6. The following claims are **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) in accordance with the Court's Memorandum:

a. Jackson's FTCA claims against the individual Defendants are **DISMISSED with prejudice**.

b. Jackson's *Bivens* claims against the United States and his *Bivens* claims against the individual Defendants in their official capacities are **DISMISSED with prejudice**.

c. Jackson's *Bivens* claims against the following Defendants in their individual capacities are **DISMISSED without prejudice**: (1) Laughingwell; (2) Bestedo; (3) Pena; (4) Fausto; (5) Hepner; (6) Sogo; (7) Dr. Daniels; (8) Dr. Brinkley; (9) Warden Marler; (10) Lt. Wright; (11) Lt. Shannon; (11) Lt.

Frontino; (12) Unit Manager Cole; (13) Unit Manager Cerda; (14) Counselor Perez; (15) A.W. Knox; (16) Officer Moore; (17) Officer Burt; (18) Officer Burton; (19) Officer Garcia; and (20) Officer Bastien.

7. Jackson is given thirty (30) days to file a second amended complaint in the instant case in the event he seeks to amend the claims the Court dismissed without prejudice. Any second amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Jackson's claims against each defendant, and shall bear the title "Second Amended Complaint" and the case number 19-3560. If Jackson files a second amended complaint, his second amended complaint must be a complete document that includes all of the bases for Jackson's claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims because the second amended complaint will become the governing pleading in this case. When drafting any second amended complaint, Jackson should be mindful of the Court's reasons for dismissing his claims as explained in the Court's Memorandum. Upon the filing of a second amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

8. The Clerk of Court shall send Jackson a blank copy of the Court's form complaint to be used by a prisoner filing a civil rights action bearing the above civil action number. Jackson may use this form to file his second amended complaint in the instant case if he chooses to do so.

9. If Jackson fails to file a second amended complaint in accordance with paragraph seven (7) of this Order, the Court will direct service of his Amended Complaint so he may proceed on the following claims: (1) an FTCA claim against the United States; and (2) *Bivens* claims against Cassano, Lawrie, Dalmasi, Kistler, and Nelson in their individual capacities. If

Jackson notifies the Court that he chooses not to file a second amended complaint, his Amended Complaint will be served at that time. If he files such a notice, Jackson is reminded to include the case number for this case, 19-3560.

10. The “Motion Requesting to Add Insert Amended-2 and Amended-3” is **GRANTED**. The Clerk of Court shall **ATTACH** Jackson’s exhibits (ECF No. 8 at 2-23) to his Amended Complaint as an attachment.

BY THE COURT:

/s/ Jeffrey L. Schmehl

JEFFREY L. SCHMEHL, J.